

TAB

~~SECRET~~

13 August 1971

MEMORANDUM FOR: Acting Legislative Counsel

SUBJECT : DDI Comments on the Hebert/Arends Bill

1. Recent weeks make it clear that something should be done to put our classification house in order and to tighten up the procedures governing the protection of classified material. Regardless of the need for these actions on the good intent behind the Hebert/Arends Bill, I have several major reservations on the proposed legislation.

2. First, the present draft seems to provide an excellent tool for penetrating Executive privilege. The wording is highly ambiguous and open to a wide range of interpretations. For example, while we have verbal assurances the Commission would not concern itself with substance, there is nothing in the bill to prevent aggressive members of the Commission from delving into substance. This could arise particularly in the attempt to strike a proper balance between a "free flow of information" and to "provide for the security of the U.S." The language of Sections 502 and 505 are of particular concern to me on this score.

3. I also am apprehensive about the provisions in Section 503 permitting hearings to be held by less than a quorum. I can envision a time when aggressive and publicity-minded members of the Commission might find this a most unique opportunity for headline-grabbing.

~~SECRET~~

SECRET

- 2 -

Subject: DDI Comments on the Hebert/Arends Bill

4. The draft legislation also focuses only on CIA, Defense, and NSA and if the legislation is to do its job effectively, other government agencies should be involved.

5. We should not feel too comfortable with the fact that in this case our friends on the Hill are trying to get a handle on the problem; our friends may not always predominate in this arena. Finally I would note that we are currently in the position of having to react to proposals made outside the Executive Branch. I feel strongly that the Executive Branch should take some immediate steps to pick up the initiative on classification policy. As you know, this whole subject currently is under White House review and the Office of Security is participating in a National Security Study (NSSM 113) which aims at many of the same objectives as the Hebert/Arends Bill. Thus we should focus our efforts on moving these programs rather than reacting to Congressional initiatives, regardless of the good intentions involved.

PAUL V. WALSH
Acting Deputy Director
for Intelligence

Attachment:

NSSM 113

Distribution:

Original - Addressee w/attachment
1 - O/DDI File
1 - O/DDI Chrono
1 - A/DDI Chrono